Case 3:20-cv-00942-D-BT Docume	nt 3 Filed 04/17/20	U.S. DISTRICY COURT
PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/201	5)	NORTHERN DISTRICT OF TEXAS I
	STATES DISTRICT IERN DISTRICT OF	
MICHAEL DISSLER #35714-044	_	CLERK, U.S. DISTRICT COUPT By
Plaintiff's Name and ID Number		Deputy
SEAGOVILLE FCI, TEXAS	_	
Place of Confinement	CASE	3 -20 CV9 4 2 - ALL
		(Clerk will assign the number)
V.		
Warden K. Zook Defendant's Name and Address	-	
Po Box 9000		
Seagoville, TX 75159 Defendant's Name and Address	-	
Defendant's Name and Address (DO NOT USE "ET AL.")	-	

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

- 1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
- 2. Your complaint must be <u>legibly</u> handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, <u>DO NOT USE THE REVERSE</u> SIDE OR BACK SIDE OF ANY PAGE. ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
- 3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
- 4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND IN FORMA PAUPERIS (IFP)

- 1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of \$400.00.
- 2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed in forma pauperis. In this event you must complete the application to proceed in forma pauperis, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed in forma pauperis and the certificate of inmate trust account, also known as in forma pauperis data sheet, from the law library at your prison unit.
- 3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed in forma pauperis, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding in forma pauperis.)
- 4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "NOTICE TO THE COURT OF CHANGE OF ADDRESS" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I.	PREVIOU	JS LAWSUITS:
	A. Ha	ave you filed <i>any</i> other lawsuit in state or federal court relating to your imprisonment?YES_VNO
	B. If	your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one wsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
	1.	Approximate date of filing lawsuit:
	2.	Parties to previous lawsuit:
		Plaintiff(s)
		Defendant(s)
	3.	Court: (If federal, name the district; if state, name the county.)
	4.	Cause number:
	5.	Name of judge to whom case was assigned:
	6.	Disposition: (Was the case dismissed, appealed, still pending?)
	7.	Approximate date of disposition:

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II.	PLACE OF PRESENT CONFINEMENT: Seagoville TX Federal Correctional Inst
ш.	EXHAUSTION OF GRIEVANCE PROCEDURES:
	Have you exhausted all steps of the institutional grievance procedure?YESNO
	Attach a copy of your final step of the grievance procedure with the response supplied by the institution.
IV.	PARTIES TO THIS SUIT:
	A. Name and address of plaintiff: MICHAEL DISSLER, #35714-044, Po Box 9000,
	Federal Correctional Institution, Seagoville, Texas 75159
	B. Full name of each defendant, his official position, his place of employment, and his full mailing address.
	Defendant#1: K. ZOOK, Warden, PO Box 9000, Federal Correctional
	Institution, Seagoville, TX 75159
	Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.
	Eighth Amendment, Cruel & Unusual punishment claim
	Defendant #2:
	Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.
	Defendant#3:
	Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.
	Defendant #4:
	Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.
	Defendant #5:
	Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

V.	STATE	MENT	OF	CLA	:MI
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	State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how <u>each</u> defendant is involved. <u>You need not give</u> any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the
	complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.
	· · · · · · · · · · · · · · · · · · ·
77	RELIEF:
I.	
	State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.
	Award punitive damages of \$30,000.00 dollars plus all fees/expenses
	and/or any other amount this court deems appropriate to grant to me.
II.	GENERAL BACKGROUND INFORMATION:
	A. State, in complete form, all names you have ever used or been known by including any and all aliases.
	NONE
	B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.
	I was once a Bolling Green, Missouri state prisoner, # unknown
П.	SANCTIONS:
ш.	A. Have you been sanctioned by any court as a result of any lawsuit you have filed?YESNO
	B. If your answer is "yes," give the following information for every lawsuit in which sanctions were
	imposed. (If more than one, use another piece of paper and answer the same questions.)
	1. Court that imposed sanctions (if federal, give the district and division):
	2. Case number:
	3. Approximate date sanctions were imposed:
	4. Have the sanctions been lifted or otherwise satisfied?YESNO

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~	vv
C.	Has any court ever warned or notified you that sanctions could be imposed? YES V NO
D.	If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)
	1. Court that issued warning (if federal, give the district and division):
	2. Case number:
	3. Approximate date warning was issued:
Executed	DATE MikelPine
	(Signature of Plaintiff)
1. 2. 3. 4.	I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit. I understand I must exhaust all available administrative remedies prior to filing this lawsuit. I understand I am prohibited from bringing an in forma pauperis lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my
Signed thi	inmate trust account by my custodian until the filing fee is paid. s

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.

STATEMENT OF CLAIM

٧.

This is an Eighth Amendment claim concerning cruel and unusual punishment and the uneccessary and wanton affliction of pain, in regards to serious dental issues.

I filed and exhausted the grievance procedure and due to my underweight physical condition and memory issues, I was approved by the BP-11 grievance, to be moved to the front of National Dental Wait List, to get immediate dentures. Many things have occurred in nearly two years & I still have no dentures.

I was taken to see outide specialist doctor to get my upper jaw-gums "grinded down" in order for dentures to properly fit on deformed jaw. This was a very painful procedure! It took months to heal up. Eventually the Seagoville FCI chief dentist, Dr Perez, did a gel mold of my jaw-gums. Many months later, Dental called me out to get the dentures.

Upper dentures fit to tight causing excruciating pain when biting down to try and chew food. Dr Perez has attempted on several occasions, to mechanically grind down the sides of the upper dentures, to get them to properly fit correctly on my upper jaw. This has not helped.

Rather than do another simple gel mold & get a new pair made, Dr Perez keeps trying to grind them down & has sent them to be repaired several times by outside business.

All this delay in waiting almost two years, has resulted in uneccessary pain and suffering, weight loss, unable to properly chew up food without the use of teeth, because obviously, Dr Perez is unskilled in being able to make a pair of dentures that fit properly without hurting.

I sue Warden Zook in her individual capacity as the warden and to whom is Dr Perez's superior/employer and oversees the Seagoville Federal Correctional Institution.

I request this court award to me punitive damages in the amount of \$30,000.00 dollars, plus all court costs and expenses, and/ or any other amount this court might deem appropriate to award to me.

Thank you.

SEA 1330.18(b)

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Administrative Remedy Program August 28, 2015 Attachment 1

Federal Correctional Institution Seagoville, Texas

Administrative Remedy Procedures for Inmates

Informal Resolution Form
Bureau of Prisons Program Statement 1330.18, <u>Administrative Remedy Program</u> , requires, in most cases, that inmates attempt informal resolution of grievances prior to filing a formal written complaint. This form will be used to docume your efforts toward informally resolving your grievance. Complete items 1-3 and return to your Correctional Counse
INMATE'S COMPLAINT:
1. State your specific complaint: (SEE: ATTACHEHED)
2. State what efforts you have made to informally resolve your complaint:
(SEE: ATTACHED)
3. State what resolution you request:
(SEE: ATTACHED)
Inmate Name Michael Dissier Register Number 35714-044 Unit A 5-BIOGI
Midwel Pesser 1-7-17 Date 9-19-17
CORRECTIONAL COUNSELOR:
A. Efforts made to informally resolve and staff contacted: You were placed on a dental plan at FCI Temporary. The process was underway to provide you with dentures. Due to your isciplinary actions: you committed a day Disruptive conduct. High by assaulting
nother immete. Therefore your dental plan was stopped. You were then being ransferred here to FCI seasouille where you them must stant the process over. This action was due to your disciplinary history.
No Informal Resolution - Issued BP-9 on 9-19.17 (Date)
nformally Resolved on
Counselor's Signature: Date: Date: 9.19-17
Juit Manager Review 9/15/17

On June 13, 2017, I spoke with Rayburn, who told me I they couldn't work on my mouth due to not having a dentist. I was in (SHU) at Texarkana (F.C.I) when this incident accurred. I was having serious pain and was unable to Chew my food properly. Pr. Downing pulled my last 5 feeth, the stopped working on me due to a Rayburn telling him to stop working on me, my dental care needed is a serious Medical need From these staffs behavior, they have demostrated, medical Negligenee," Deliberate Inddifference · and Violated my rights to proper dental care under the Constitution, and Also have Violated their Program Statements. This An Eigth And Amendment Violation. The Courts have hold that 'repeated examples of this type of Conduct are stravias demostrating deliberate in difference." They have treated me as a nuisance not an in mote. Intentionally denying or delaying constitution is a serious Violation . They have consistentally continued app a pattern of recklessness behavior. Due to These stoff Conduct, I have been suffering, these staff hove been so hegligent that it amounts that it Constitutes the unnessary and wanton infliction of pain"... proscribed by the eighth Amendment. Cattempt To Resolve) Spoke with Rayburn, Personally RPh/ HSA (Relief)(1) I Want immediately dental treatment, and (*) I want my dentures made so that I can eat properly on not have worry of Lamaged health in the fiture.

[3) all Staff invalued beheld occount able for their actions

U.S. DE ARTHURST OF JUSTICE

Page 3:20-cv-00942-D-BT Document 3 Filed 04/17/20 Page 10 of 18 Page 12

Type or use ball-point pen. If attachments are member, possile jour copies, delineare autorications on Part A PUBLISH SECTIONS! Less at T.C. 1. Texasisme, and LANT WANT, PRINT, MINNEY DOTTAL end never go a response so I dont know my maker for there. I apple with Mr. Newtonian and to the the the country for work on my mouth due to having a dentist. I go smeath to come my fock which is a health hazardness. Mr. Rayburr and all there has demostrated deliberate instifferent to my serious medical need. They have been really negligent toward he and my massis. I have at P.C.I. Seegoville, so all I ask is that the dental department here make my some design immediately so I can eat my food. That all staff involved be held accountable for the actions: I was in the S.H.U. at Texarkana at the time I asked for treatment. I see that Dr. Baker and Dr. Perez here at Seagoville start my dental work immediatley. The dental department has constantly continued a pattern of reckleness and are violating my Constutional Rights to agaute medical care. I ask that you entervene and have my treatment started here right away. Thank you. Miles Die CASE DUNBER ORIGINAL: RETURN TO INMATE CASE NUMBER Part C- RECEIPT Return to: LAST NAME, PIRST, MIDDLE INITIAL HEEC NO. UNIT UBJECT

Part B: Response to Request for Administrative Remedy

FCI Seagoville, Texas

DISSLER, Michael C Register No.: 35714-044 Remedy No.: 915945-F1

This is in response to your Request for Administrative Remedy received September 12, 2017, wherein you claim staff are refusing to provide you dental care; you claim dental care indifference, negligence and recklessness on part of the Dental Clinic. You are requesting fabrication of dentures begin immediately so you can eat your food. You claim your constitutional rights to adequate medical care has been violated and you would like to have all staff involved be held accountable.

The CDO has met with you to discuss your position on the National Routine Treatment list. You were provided this information and the opportunity to have a Mechanical Soft Diet provided. You refused dental care treatment on July 15, 2014. You were reinstated on July 24, 2015, by the Dental Staff at your previous institution. Your transfer to this institution did not jeopardize your standing on the National Routine Treatment list.

According to the Program Statement, 6400.03, <u>Dental Services</u>, Section 6. (1) Access to care must be equitable. Dates of initial requests for dental treatment follow the inmate from one facility to another. Those waiting the longest will be seen first, in chronological order. As soon as your name appears at the top of this list, you will be placed on call out to begin the fabrication of the dentures.

The Dental Staff has responded to your grievances by providing counseling sessions and providing you the opportunity for a Therapeutic Diet. At first you declined, but later accepted the offer.

In addition, Section 10. URGENT DENTAL CARE (DENTAL SICK CALL PROGRAM) defines urgent dental care as treatment for acute dental pain, traumatic injuries, and acute infections. Immediate fabrication of dentures is not found in the policy. You may report to Dental Sick Call with any questions or concerns.

Based on the information above, this response is for informational purposes only.

If you are not satisfied with this response, you may appeal to the South Central Regional Director, 344 Marine Forces Drive, Grand Prairie, Texas 75051, via BP-DIR-10, within 20 calendar days of the date of this response.

D. J. Harmon, Warden

Date

Federal Bureau of Prisons				
Type or use ball-point pen. If attachments are needed, submit four copies. One copy with this appeal.	of the complet	ed BP-229(13) including a	·
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Part A - REASON FOR APPEAL				L. Fairla
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Regional Administrative Remedy Appeal No. 915945—R3 Part B - Response

This is in response to your Regional Administrative Remedy Appeal receipted January 10, 2018, regarding dental care. You claim a Health Services Department staff member at your previous institution made an inappropriate remark to you and discarded your Inmate Requests to Staff requesting dental care. You also claim your teeth were extracted without pain medication and fabrication of dentures has been inordinately delayed. You request dentures.

Allegations of staff misconduct are taken seriously, and your allegations have been forwarded to appropriate officials for review. If warranted, appropriate corrective action will be taken at the conclusion of the review.

A review of your electronic medical record reveals you have undergone multiple extractions and have been provided pain medication after each extraction. If you experience continued post-extraction pain, you may seek dental care for additional modifications to your plan of care or you may purchase over the counter pain relievers at the commissary if needed.

Dentures are a component of treatment plan of comprehensive dental care, and are considered routine, non-urgent dental care. You are on the routine dental treatment list in accordance with policy and care will be provided in chronological order. In the meantime, you are encouraged to practice good oral hygiene habits with brushing at least twice per day and flossing daily to preserve your remaining teeth. If you are having problems eating, you may request a mechanical soft diet through the dental sick call process.

This response is for informational purposes only.

If you are dissatisfied with this response, you may appeal to the Federal Bureau of Prisons, Office of General Counsel, 320 First Street, N.W., Washington, D.C. 20534. Your appeal must be received in the Office of General Counsel within 30 days from the date of this response.

JAN 26 2018

Date

J. F. Caraway

Regional Director

MICHAEL C DISSLER, 35714-044
SEAGOVILLE FCI UNT: A QTR: A02-461L
2113 NORTH HWY 175
SEAGOVILLE, TX 75159

WARDEN'S OFFICE
JUN 1 2 2018
FCI SEAGOVILLE

Administrative Remedy No. 915945-A3 Part B - Response

This is in response to your Central Office Administrative Remedy Appeal wherein you assert you have no teeth to properly eat nutritious foods which causes you severe pain and choking issues. You assert the Food Services Department is not providing you with the mechanical soft diet your local dentist prescribed. You further contend there is a loose bone fragment in your upper jaw and the dentist is waiting to see if it grafts back into the jaw on its own. For relief, you request to be medically exempt from the National Dental Wait List and have your dentures made as soon as possible.

Our review of documentation and that of your medical record reveals on October 19, 2016, you had a dental treatment plan exam by a dentist. The dentist determined your remaining teeth had multiple deep cavities and the best treatment was the extraction of your remaining teeth and the fabrication of full dentures. Over two appointments on December 7, 2016, and December 21, 2016, your remaining teeth were extracted.

Your record shows that you should still have access to a mechanically softened diet. Your local institution has been contacted to ensure it is available to you. Since you should have been placed on a medical hold until all of the treatment was completed, your local dental department has been contacted and instructed to complete your routine dental care in a timely manner.

Considering the foregoing, this response is provided for informational purposes only.

5/1/1/6

Ian Connors, Administrator National Inmate Appeals

ath in order to properly eat nutritious foods, I have difficulty eating, smallowing gots ing able to properly chew up food we are served, resulting in severe pain & choicing issuing able to properly chew up food we are served, resulting in severe pain & choicing issuing the pain and the pain of the control of the contro	m a slewder 63 yr old elderly man with other serious health problems & I currently have able to properly eat mutritious foods, I have difficulty eating, swallowing and the able to properly chew up food we are served, resulting in severe pain & choicing is that Perez says there is a loose bone fragment in my upper jaw area & has told in to "mit" & in will gast back into the jaw on its can, all the will I suffic waiting. It Perez has not a mathibical digit of the pain & dist ration to brain to Bertal Sick call on about \$13.000 to seak help reposite the pain of the pain of the pain in the p				TRAL OFFICE AP	
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BP-11 (Page Two)

3/27/2018

I request per Program Statement OPI:6400.03 (5) Medical Co-morbidities section and to which allows the dentist to 'reprioritize dental treatment', exempting me from wait list procedures and providing dentures to me "now" not the 3+ years Dr Perez told me I would have to wait on the National Dental Wait List before I can receive the dentures I desperately need now, due to my age and other health problems.

Thank you.

Further note to the Central Office Inmate Appeals:

Law library inmates assisted Mr Dissler in preparing and typing up this BP-11 under his direction. Due to a prior head injury Mr Dissler received prior to his incarceration, We believe that he has dementia, or trouble remembering. If this matter is not resolved at the grievance level, we are fully prepared to assist him in filing a federal law suit under Bivens & seek remedy in court.

Thank you.

